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September 17, 2011

Phil Isenberg, Chair  
Delta Stewardship Council  
980 Ninth Street, Suite 1500  
Sacramento, CA 95814

Electronic Copy  
Hardcopy to Follow

Re: Covered Actions; Policy WP P1

Dear Chairman Isenberg,

On behalf of the Mountain Counties Water Resources Association (MCWRA), I want to thank the Delta Stewardship Council for holding two very constructive and productive workshops on Thursday, September 15, 2011. We very much appreciate Staff's continued hard work and the opportunity to provide stakeholder input during each workshop. I would also like to thank Council members Gloria Gray, Felicia Marcus and Randy Fiorini for taking time from their busy schedules to attend and participate in the dialog.

During the afternoon workshop on "Covered Actions & Governance", several speakers addressed the continuing concern from water purveyors within the Delta **Watershed** over the Delta Plan's description of "covered action." You will recall that we also brought up this issue at the August 26<sup>th</sup> Delta Council meeting. While the Fifth Staff Draft Delta Plan has marked improvement over the previous Staff Draft Plans, "covered actions" relevant to the Delta **Watershed** still remain unclear. However, it was only at the workshop that staff stated clearly for the first time that diversions of water within the Delta **Watershed**, including changes to water rights for such diversions, are **not** considered by the Council to be "covered actions" subject to consistency requirements with the Plan.

We strongly urge that the Final Plan include a clarifying statement, possibly within or preceding Policy WP P1 (as referenced on page 82 of the Draft Plan) that reads:

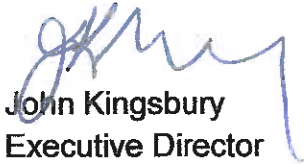
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Georgetown Divide Public Utility District  
Nevada Irrigation District  
Placer County Water Agency  
South Tahoe Public Utility District  
Tuolumne Utilities District  
Utica Power Authority

*A "covered action" does not include any action granting, administering or changing a water right permit or license to divert water within the Delta watershed but wholly outside of the statutorily defined Delta, or any action to exercise a water right or to use water within the Delta watershed but wholly outside of the statutorily defined Delta, unless the water is conveyed through the Delta.*

The uncertainty and confusion concerning water right administration and use in the Delta **Watershed** has persisted despite efforts on the previous draft Plans to narrow the definition of the term. Because of this and because of the recognized downstream impacts of upstream water use, it is crucial that the Council add this clarification statement. It will streamline the Council's workload, give a measure of assurance and reliability to water agencies, and, probably, avert unnecessary litigation in the future.

Thank you for your consideration. If you have any questions, please give me a call at 530.957.7879.

Sincerely,



John Kingsbury  
Executive Director

Mountain Counties Water Resources Association

c: Delta Stewardship Council Board Members  
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Dave Eggerton, General Manager, El Dorado County Water Agency  
Mark Rentz, ACWA Director of Regulatory Affairs